



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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August 28, 2009

Mr. James F. Williamson, Jr.
Senior NEPA Specialist
Tennessee Valley Authority
400 West Summit Hill Drive WT 11C
Knoxville, TN 37902-1401

Subject: EPA NEPA Review Comments on TVA's FEIS for "Mountain Reservoirs Land Management Plan"; Chatuge, Hiwassee, Blue Ridge, Nottely, Oconee 1, 2 & 3, Apalachia, and Fontana Reservoirs; Fannin, Towns, and Union Counties, GA; Swain County, NC; Polk County, TN; CEQ #20090269; ERP #TVA-E65082-00

Dear Mr. Williamson:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject Tennessee Valley Authority (TVA) Final Environmental Impact Statement (FEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. EPA has previously provided comments on the Draft EIS (DEIS) in a letter dated September 23, 2008. By TVA letter dated July 29, 2009, the end of the holding period for the present FEIS was extended by TVA to September 8, 2009.

Background

TVA proposes a Mountain Reservoirs Land Management Plan (MRLMP) for managing the above-referenced nine reservoirs in northeast Georgia, southwest North Carolina and southeast Tennessee. The MRLMP would replace the existing Forecast System developed in the 1960's, under which all reservoirs except Fontana Reservoir are currently managed. Overall, about 6,220 acres of land would be included in the planning process, of which about 5,142 acres are already committed – and will remain so committed – and about 1,078 acres (17%) are still uncommitted (pg. 22). With the exception of Zone 1 involving non-TVA lands, TVA would re-allocate uncommitted lands that are under TVA's jurisdiction in six of the seven land use zones (Zones 2-7) and pursuant to the proposed MRLMP:

- * Zone 1 – Non-TVA Shoreland
- * Zone 2 – Project Operations
- * Zone 3 – Sensitive Resource Management
- * Zone 4 – Natural Resource Conservation
- * Zone 5 – Industrial
- * Zone 6 – Developed Recreation
- * Zone 7 – Shoreline Access

Land allocation, parcel development, and the level of shoreline disturbance within these land use zones can significantly affect reservoir water quality and its management. To this end and in combination with fostering economic development within the Tennessee Valley consistent with its mandates, TVA developed three alternatives for land re-allocation at the DEIS stage. These were Alternative A (*No Action/Forecast System Alternative*) which would retain the Forecast System rather than develop an MRLMP; Alternative B (*Proposed Land Use Plan Alternative*) which would favor conservation by allocating more lands into Zones 3 and 4; and Alternative C (*Proposed Modified Land Use Plan Alternative*) which would favor development by allocating more lands into Zones 5 and 6. No TVA preferred alternative was identified in the DEIS. In our comments on the DEIS, EPA indicated that we preferred Alternative B from a water quality perspective. However, if Alternative B was not selected by TVA, we suggested that TVA consider an alternative with less development that would be bracketed by Alternatives B and C.

In the FEIS, TVA added a new Alternative D (*Blended Alternative*), which allocates less land to development zones and more land to conservation zones than Alternative C. While EPA continues to environmentally prefer Alternative B in order to maximize reservoir water quality and shoreline integrity, Alternative D appears reasonable and is more environmentally sensitive than Alternative C. For example, we are pleased to note that Parcel 10, which had been requested for industrial allocation into Zone 5 by a power company (request since withdrawn), would instead be allocated to natural resource conservation in Zone 4 (which is its current use) under Alternative D. Moreover, the FEIS (pg. S-3 in the main document and TVA's response "EPA-18" to DEIS comments in Vol. 2) states that: "Under TVA's preferred alternative (Alternative D), no land on the mountain reservoirs would be allocated for industrial development." Similarly, the FEIS (pg. S-3 and TVA's "EPA-27" response) reports that Parcel 77 would be allocated to Zone 4 rather than Zone 6. Other examples for less proposed recreational development exist for Alternative D compared to Alternative C.

While the present disposition of Parcels 10, 77 and others is encouraging from a water quality perspective, future application requests from the public could eventuate. In this regard, we would primarily be concerned that parcels could be re-allocated to other zones, particularly from conservation to development zones. However, this does not appear to be the case based on page S-2, which states:

Under all alternatives, a parcel's allocation would guide how that parcel would be used or managed in the future. Specifically, the allocation for a parcel would determine the appropriateness of proposals for land use or management on that parcel, including requests from outside TVA. Land use inconsistent with the allocation of a parcel would be inappropriate and would not merit consideration by TVA.

TVA's Response to "EPA-15" also suggests a similar protocol. We therefore assume re-allocations pursuant to TVA's selected alternative would be set once TVA approves its Record of Decision (ROD). As such, only the use of a parcel within an allocation

zone would be left for discussion by a TVA review board in response to public application requests. In contrast, however, TVA's response to "EPA-16" is somewhat inconsistent since it suggests that re-zoning of parcel requests may be entertained by TVA: "Potential effects to water quality will be considered if TVA receives future requests for rezoning of parcels". Therefore, for clarity, the TVA ROD should verify if parcels can or cannot still be re-zoned into different land use categories once a selected alternative is identified in the TVA ROD (e.g., from conservation Zones 3 or 4 to developmental Zones 5 or 6). If so, a TVA review board decision on the acceptability of the proposed use of specific land parcels within an allocated land use zone – as requested by public application – the only remaining TVA decision once the ROD is approved.

Such TVA decisions would be based on zone use definitions (Table 2-1) and on the results of TVA's environmental review (S-2). These individualized evaluations would involve additional NEPA documentation tiering from the present EIS and other compliance reviews consistent with TVA's Section 26(a) permitting process and TVA's Land Policy at the time of the request (TVA responses to EPA-14, -17, -21) as well as presumably TVA's Shoreline Management Policy (SMP). We appreciate such protocol but offer that unless such tiered NEPA reviews are at the EIS level, such reviews would require less or no public/agency review (e.g., if Environmental Assessments (EA) or Categorical Exclusions (CE) are used). Accordingly, we request that TVA voluntarily conduct sufficient public hearings or meetings for EAs and CEs in order to fully engage the public in TVA's decision-making process.

TVA's Land Policy is also part of the decision-making process. We understand (EPA-20) that TVA's Land Policy "...gives preference to industrial development that requires water access." While we agree that only those facilities requiring water access should be located along the shoreline (otherwise the shoreline should preferably not be developed), there are numerous facilities requiring water access that could degrade or contaminate reservoir water quality. Based on our water quality experience, we request that the TVA review board carefully scrutinize any water-access applications. We are pleased to note that Alternative B and TVA's preferred Alternative D do not allocate any lands to industrial development for the mountain reservoirs and that locating barge terminals – which may involve incidental cargo spills – is also not considered likely along mountain reservoir shorelines (EPA-8 & -19). However, Alternative C retains some lands in industrial Zone 5.

TVA Responses

Reference has been previously made to TVA's responses to our DEIS comments. We have concentrated the remainder of our FEIS review on these responses. We note that our comment letter is provided on pages 3-12 of Volume 2 of the FEIS, while TVA's responses to our comments are found on pages 13-20. We appreciate that our comments were directly responded to as opposed to being bundled with other public comments on similar topics. We also note that our and other agency comments were summarized in the main document (pg. 13). We offer the following comments on selected TVA responses.

* EPA-4 (Parcels 10, 52 & 77) – Under the new TVA-preferred Alternative D, Parcel 10 would no longer be allocated to Zone 5 (Industrial) but rather to Zone 4 (Natural Resource Conservation), and the power company's request for industrial zoning was withdrawn. As in the case for Alternative C, Parcels 52 and 77 would continue to be allocated to Zone 6 (Developed Recreation), although we note that "TVA has not received a formal request for the development of recreational facilities on either parcel." Similarly, TVA's Response to "EPA-14" states that "[a]t this time, there are no pending requests for industrial use of Parcel 10." From a water quality perspective, this appears positive unless new requests are made.

* EPA-9 & -11 (Backlying Areas) – We appreciate that TVA does not own many of the backlying areas beyond the shoreline of its reservoirs. However, inasmuch as the land use of these areas is important to reservoir water quality, we suggest that TVA become – if not already the case – an active stakeholder in the community for the development and implementation of a Watershed Management Plan (WMP) for each mountain reservoir. As a prominent stakeholder, TVA might influence the land use of these areas and/or the control of stormwater runoff potentially entering reservoirs. We suggest that the TVA ROD discuss the presence or absence of WMPs for mountain reservoirs and TVA's present and/or prospective participation. Where coordination with landowners is not successful, reservoir buffers can perhaps be constructed or increased to effectively filter non-point-source runoff. Such efforts could complement TVA's ongoing Section 26(a) permitting process.

* EPA-12 (Parcel 10 Sizing) – From an environmental standpoint, we are pleased that the power company's request for a water intake at Parcel 10 was withdrawn (EPA-13). We note from this response that an oversized 27.2-acre parcel would be zoned industrial (Zone 5) under Alternative C, since it was unclear how much land was needed. For future reference, we suggest that more information on the proposed parcel's land use be obtained for any future requests in order to minimize the amount of shoreline development. Although the request was withdrawn, we note that the 27.2 acres for Parcel 10 would remain in Zone 5 for Alternative C.

* EPA-23 (Parcel 10 Water Quality) – Given that Parcel 10 would be in Zone 4 for Alternatives B and D, we agree with Section 3.2.10.2 (pg. 126) that water quality would not be degraded. However, we note that Alternative C would retain 27.2 acres in industrial Zone 5. EPA's water quality concern with such a development – especially if an industrial discharge exists – is whether or not the adjacent Wood Creek portion of the Chatuge Reservoir is sufficiently circulated to assimilate potential industrial discharges. We recommend that TVA environmental reviews for any future use of Parcel 10 in Zone 5 under Alternative C would include an onshore (runoff) and offshore (circulation) water quality review.

* EPA-25 (Chatuge Water Quality Improvements) – Although they were not identified in this response, we appreciate the referenced TVA's water quality improvements for Chatuge Reservoir. We recommend that such improvements include stakeholder participation in the development and implementation of a WMP.

* EPA-28 (Parcels 34 & 52) – This response confirms that these two parcels are greenfield sites. Alternatives B and D would not alter the greenfield nature of Parcel 34 (Hiwassee Reservoir) since it would be located within Zone 4, and Alternative C would only allow stream access for wade fishing (pg. 34). However, Parcel 52 (Chatuge Reservoir) would be within Zone 6 under Alternatives C and D (pg. 33), which would imply some level of recreational development. Although the type of requested recreation appears to primarily require water access (boat launch, fishing piers, and trails), the ROD should discuss any proposed mitigation to minimize developmental impacts, if associated shoreline amenities would also be developed, and whether or not such recreational development could be re-located to a brownfield site (e.g., expansion of an existing recreational site) instead of a greenfield site.

* EPA-29 (Parcel 49) – Parcel 49 (Hiwassee Reservoir) would stay within Zone 6 (as in the case of Alternative C) and be located in Zone 4 for Alternative B (pg. 34). The parcel 49 request for a Zone 6 riverwalk extension in North Carolina need not be a water quality concern. We recommend, however, that no fill be added along the shoreline to construct the riverwalk and that sufficient natural or augmented buffer be left/provided between the riverwalk and reservoir to filter stormwater runoff.

* EPA-D4 (Cumulative Effects) – Although cumulative effects were mentioned in the referenced Section 3.9 (pg. 263), the information provided was minimal. We agree that continued residential development on Chatuge Reservoir and other TVA reservoirs could be cumulative with existing water quality concerns, this section could have been improved. That is, the primary water quality issues associated with proposed parcel developments (industry and recreation) by the action alternatives could have been identified and associated with ongoing and expected reservoir impacts such as residential development and runoff. Discussion of TVA's water quality initiatives at Chatuge and perhaps other reservoirs (EPA-14) and actual or prospective stakeholder participation in EPA-recommended WMPs would also have been appropriate as offsets for direct, secondary and cumulative impacts. The ROD should further address cumulative effects relative to the proposed land allocations and parcel use requests, focusing on the selected alternative.

* EPA-D8 (Threatened & Endangered (T&E) Species) – Although not substantive, our DEIS comment was somewhat misinterpreted in the paraphrased EPA comment on page 19 of Volume 2. As a federal EIS, inclusion of state-listed T&E species would not be required (although it would be beneficial to the disclosure of overall project impacts). Our request was to clarify if the species already listed in Table 2-10 of the DEIS were only federally listed or a mix of both federal- and state-listed species. We appreciate that TVA's response clarified this.

Summary

New Alternative D was introduced in the FEIS as TVA's preferred alternative. Alternative D is bracketed by Alternative B (which favors conservation) and Alternative C (which favors development). Although EPA continues to prefer Alternative B from an

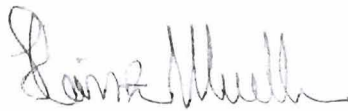
environmental perspective, we recognize that Alternative D is a better blend of conservation and development than Alternative C. As in the case of Alternative B, we value that no lands would be allocated to industrial use under Alternative D. Specifically, we support that Parcel 10 proposed for industrial Zone 5 allocation under Alternative C, was changed to a natural resource conservation Zone 4 allocation under Alternative D, thereby reducing the level of development and potential for water quality impacts.

Moreover, it appears that the land allocations associated with whatever alternative is selected by TVA in the FEIS would apparently be set, such that public requests to change these allocations would not be entertained by TVA. This, however, should be verified in the ROD since the FEIS is somewhat inconsistent. However, public applications requesting parcel use within a zone may still occur in the future. For these, we understand that the use decisions by the TVA review board would be based on individual environmental reviews and involve the NEPA process tiering from the present EIS, use definitions associated with Zones 2-7 (Table 2-1), and other TVA regulations or policy such as TVA's Section 26(a) permitting process, TVA's Land Policy and/or presumably TVA's Shoreline Management Policy.

EPA encourages TVA to provide environmental reviews that engage the public and that promote sound environmental evaluations that result in good reservoir water quality. These reviews should be consistent with NEPA – if not go beyond NEPA requirements – to fully engage the public if EAs or CEs are used instead of EISs, and to require compliance with TVA regulations and policy. Moreover, we recommend that TVA become or continue to be an active and prominent stakeholder within the community in developing and implementing WMPs for each of the mountain reservoirs. Such plans would help guide the land use of backlying reservoir areas not owned by TVA, so that runoff entering TVA reservoirs could be better controlled for better reservoir water quality.

EPA appreciates the opportunity to review this FEIS. Should you have questions on our comments, please contact Chris Hoberg of my staff at 404/562-9619 or hoberg.chris@epa.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Heinz J. Mueller", written in a cursive style.

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management